

2003 DRAFTING REQUEST

Assembly Amendment (AA-AB137)

Received: **05/20/2003**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Carol Owens (608) 267-7990**

By/Representing: **Nick**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sentencing**

Extra Copies: **rlr**

Submit via email: **YES**

Requester's email: **Rep.Owens@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Expungement

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mdsida 05/23/2003	kgilfoy 05/23/2003	pgreensl 05/23/2003	_____	lemery 05/23/2003	lemery 05/23/2003	

FE Sent For:

<END>

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/1	mdsida	1-5/23 Kmg	5/23 PS	5/23 self			

FE Sent For:

<END>

Dsida, Michael

From: Cekosh, Nick
Sent: Tuesday, May 20, 2003 3:20 PM
To: Dsida, Michael
Subject: FW: Possible amendment to AB 137

Mike,

Below are the changes the public defender's office recommended to out bill in order to prevent youthful offender from having a permanent record.

Thank you for helping us out on this.

NICK CEKOSH
Legislative Assistant
Office of State Representative Carol Owens
Room 315 North, State Capitol
P.O. Box 8953
Madison, WI 53708
Phone: (608) 267-7990 / (888) 534-0053
Fax: (608) 282-3653

-----Original Message-----

From: Tobin, Michael [mailto:TobinM@mail.opd.state.wi.us]
Sent: Tuesday, May 20, 2003 3:16 PM
To: 'Nick.Cekosh@legis.state.wi.us'
Cc: Ginger, Krista
Subject: Possible amendment to AB 137

Nick,

The following changes would allow the court to expunge misdemeanors for the successful senior court participants:

Amend sec. 973.015 by adding sub (3) Notwithstanding subsec. (1), the court may order that the record be expunged for a person under age 25 at the time of the offense if the person successfully completes a senior court placement under sec. 973.115.

Amend proposed sec. 973.115(4) by adding after the word "entered": "or if the court ordered expungement under sec. 973.015(3)"

Thank you for the opportunity to comment on this proposal and for your interest in helping youthful offenders avoid a permanent record for a misdemeanor.

Mike Tobin
Director, Trial Division
State Public Defender
266-8259

05/20/2003



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa0541/1

msd King

D-Note

ASSEMBLY AMENDMENT,
TO 2003 ASSEMBLY BILL 137

soon

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 3, line 20: after that line insert:

text: treat
3 " (c) When ordering that a defendant be placed in a senior court program, the
4 court may order that the record be expunged if the defendant satisfies the conditions
5 of the order and any applicable suspended prosecution agreement." ;

6 ✓ 2. Page 4, line 4: delete lines 4 to 6 and substitute "any applicable suspended
7 prosecution agreement, the court shall do all of the following:

8 *1.* Discharge the defendant.
9 *2.* Dismiss the charges against the defendant if a judgment of conviction was
10 not previously entered.

3.
11 Expunge the court record if the court authorized expungement under sub.
12 (2) (c).".
13

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0541/1dn

MGD: f...
King

Nick:

As I explained in our phone conversation, neither law enforcement officers nor district attorneys would be required to seal or destroy their own records in a case in which a court record is expunged. *State v. Leitner*, 2002 WI 77, 253 Wis. 2d 449 (2002). Thus, if a person whose record is expunged commits a subsequent crime, law enforcement officers and district attorneys may use information that they retain regarding the first offense, including in court. *Id.* at ¶ 40.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0541/1dn
MGD:kmg:pg

May 23, 2003

Nick:

As I explained in our phone conversation, neither law enforcement officers nor district attorneys would be required to seal or destroy their own records in a case in which a court record is expunged. *State v. Leitner*, 2002 WI 77, 253 Wis. 2d 449 (2002). Thus, if a person whose record is expunged commits a subsequent crime, law enforcement officers and district attorneys may use information that they retain regarding the first offense, including in court. *Id.* at ¶ 40.

Michael Dsida
Legislative Attorney
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